

REMARKS

This is a full and timely response to the non-final Office Action mailed by the U.S. Patent and Trademark Office on December 7, 2007. Claims 1-7, 9-15, 17-23 and 25 remain pending in the present application. Claims 1 and 25 have been amended to comply with 35 U.S.C. §101. Claims 1, 9, 17 and 25 have been amended to comply with 35 U.S.C. §112, first paragraph. Claims 1, 9, 17 and 25 have been amended to define further the invention. Support for the amendments to claims 1, 9, 17 and 25 can be found at least in FIG. 1, 2, 6A, 6B, 6C and the related description. Claim 17 has been amended to correct a typographical error. Claims 8, 16 and 24 are canceled without prejudice, waiver or disclaimer. Applicants respectfully submit that no new matter is introduced. In view of the foregoing amendment and following remarks, reconsideration and allowance of the present application and claims are respectfully requested.

Rejection Under 35 U.S.C. § 101

Claims 1 and 25 stand rejected under 35 U.S.C. § 101, as allegedly being directed to non-statutory subject matter. The Office Action states that ““a software code segment” refers to program instructions while the claim as introduced in the preamble begins with “a system...” which is an apparatus claim...”

Applicants have amended claims 1 and 25 to recite “a correlation and display element” instead of a software code segment. Applicants respectfully submit that claims 1 and 25 are in compliance with 35 U.S.C. § 101, and respectfully request that the rejection be withdrawn.

Information Disclosure Statement

The Office Action states that the information disclosure statement filed on September 1, 2006, fails to comply with the provisions of 37 C.F.R. § 1.97 and MPEP § 609, because the serial number (10/857,306) listed on form PTO1449 is incorrect.

Applicants respectfully submit that an Information Disclosure Statement including a PTO1449 form was filed on September 19, 2005, listing the same references that are listed on the PTO1449 form filed on September 1, 2006. Accordingly, the references listed on the PTO1449 form filed on September 1, 2006, are currently of record in the above-identified

application and no further action appears warranted.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 1, 9, 17 and 25 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action states that “components” on line 11 is not disclosed in the specification.”

Applicants have amended claims 1, 9, 17 and 25 as suggested in the Office Action. Applicants respectfully submit that claims 1, 9, 17 and 25 are in compliance with 35 U.S.C. § 112, first paragraph, and respectfully request that the rejection be withdrawn.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 8, 16 and 24 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Office Action states that claims 8, 16 and 24 are objected to for the following formality. The Office Action states that “it is not clear what communication protocol is considered as “non-standard communication protocol”.”

Applicants have canceled claims 8, 16 and 24 without prejudice, waiver or disclaimer. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Double Patenting

Claims 1, 9, 17 and 25 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 22 of U.S. Patent No. 7,245,609B2.

Applicants submit herewith a terminal disclaimer over U.S. Patent No. 7,245,609, and respectfully request that the double patenting rejection be withdrawn.

Rejection Under 35 U.S.C. § 102

Claims 1-25 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,839,342 to Parham *et al.* (hereafter *Parham*). A proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the

claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). The test is the same for a process. Anticipation requires identity of the claimed process and a process of the prior art. The claimed process, including each step thereof, must have been described or embodied, either expressly or inherently, in a single reference. *See, e.g., Glaverbel S.A. v. Northlake Mkt'g & Supp., Inc.*, 45 F.3d 1550, 33 USPQ2d 1496 (Fed. Cir. 1995). Those elements must either be inherent or disclosed expressly. *See, e.g., Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 7 USPQ2d 1057 (Fed. Cir. 1988); *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987). Those elements must also be arranged as in the claim. *See, e.g., Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989); *Carella v. Starlight Archery & Pro Line Co.*, 804 F.2d 135, 231 USPQ 644 (Fed. Cir. 1986). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Accordingly, the single prior art reference must properly disclose, teach or suggest each element of the claimed invention.

Parham discloses a communication network that uses a number of active elements, such as a gateway 18, a switch 16 and a softswitch 26, to transport telephone calls through a TDM network and a BLES (broadband loop emulation service) network. The elements disclosed in *Parham* are active network communication elements and therefore, intrinsically have information relating to the communication messages because this is where the messages are being created.

Specifically, *Parham* states:

[i]n operation, Class 5 softswitch 26 receives signaling information in a network signaling format from signaling network 24. Signaling network 24 is shown using an SS7 network signaling format example but may be configured

to use any of a variety of signaling protocols to include international signaling configurations such as the C7 signaling protocol and other signaling protocols such as SIP, SIP-T, BICC, and Sigtran. Class 5 softswitch converts the signaling information received in the network signaling format from signaling network 24 to a media gateway and call session control format. The media gateway and call session control format may be any of a variety of such formats including those specified above. The media gateway and call session control format is provided to gateway 18 for conversion to the desired broadband loop emulation service signaling protocol and passed on to IAD 20 at customer premises 22 through BLES network 14.

See *Parham*, col. 2, lines 47-63.

From this it is clear that *Parham* requires that the device that performs the conversion from one protocol to another protocol be an active element in the communication network.

In marked contrast to *Parham*, the present invention discloses a remote monitoring system and methods of operation that are used to correlate the multiple protocols remotely from the active network devices.

For example, amended claim 1 includes at least “a first communication protocol *associated with a first communication network*,” “a second communication protocol *associated with a second communication network*,” and “*an analysis device remote from and coupled to the first communication network and to the second communication network, the analysis device having a correlation and display element* configured to *passively* detect correlation data identifying a first call portion associated with the first communication protocol, and configured to *passively* detect correlation data identifying a second call portion associated with the second communication protocol, where the correlation data comprises *information identifying* the first communication protocol and the second communication protocol, and wherein the correlation data is detected in real time.”

Applicants respectfully submit that at least these features are not disclosed, taught or suggested by *Parham*.

Amended claim 9 includes at least “*passively* detecting *in an analysis device remote from and coupled to the first communication network* a first call identifier associated with a first communication protocol,” and “*passively* detecting *in the analysis device* correlation data identifying a first call portion associated with the first communication protocol, and a second call portion associated with a second communication protocol, where the correlation data comprises *information identifying* the first communication protocol and the second

communication protocol, and wherein the correlation data is detected in real time.”

Applicants respectfully submit that at least these features are not disclosed, taught or suggested by *Parham*.

Amended independent claim 17 includes at least “logic for *passively* detecting a first call identifier associated with a first communication protocol,” and “logic for *passively* detecting *in an analysis device remote from and coupled to the at least two dissimilar communication networks* correlation data identifying a first call portion associated with the first communication protocol, and a second call portion associated with the second communication protocol, where the correlation data comprises *information identifying* the first communication protocol and the second communication protocol, and wherein the correlation data is detected in real time.” Applicants respectfully submit that at least these features are not disclosed, taught or suggested by *Parham*.

Amended independent claim 25 includes at least “a first communication protocol *associated with a first communication network*,” “a second communication protocol *associated with a second communication network*,” and “*an analysis device remote from and coupled to the first communication network and to the second communication network, the analysis device having a correlation and display element* configured to *passively* detect correlation data identifying a first call portion associated with the first communication protocol, and configured to *passively* detect correlation data identifying a second call portion associated with the second communication protocol, where the correlation data comprises *information identifying* the first communication protocol and the second communication protocol, wherein the correlation data is *passively* detected in real time, and wherein the first communication protocol is SS7 and the second communication protocol is internet protocol (IP).” Applicants respectfully submit that at least these features are not disclosed, taught or suggested by *Parham*.

Applicants also respectfully disagree with the statement in the Office Action that:

In claims 4, 12 and 20, Parham et al. discloses the correlation data is supplied to an analysis device (gateway 18) that is coupled to the communication network, (communication network 20 in fig. 2) and wherein the correlation data is supplied by a customer provided communication device (from customer premises 22 as shown in fig. 2).

Applicants respectfully submit that the gateway 18 shown in *Parham* is not an analysis device, but is instead active communication network equipment. Applicants' analysis device is a separate monitoring device that is separate from the equipment that creates and transports to communication data.

Accordingly, Applicants respectfully submit that independent claims 1, 9, 17 and 25 are allowable over *Parham*, and furthermore, that dependent claims 2-7, which depend either directly or indirectly from allowable independent claim 1, claims 10-15, which depend either directly or indirectly from allowable independent claim 9, and claims 18-23, which depend either directly or indirectly from allowable independent claim 17, are allowable for at least the reason that they depend from allowable independent claims. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1998).

CONCLUSION

For at least the foregoing reasons, Applicants respectfully request that all outstanding rejections be withdrawn and that all pending claims of this application be allowed to issue. If the Examiner has any comments regarding Applicants' response or intends to dispose of this matter in a manner other than a notice of allowance, Applicants request that the Examiner telephone Applicants' undersigned attorney.

Respectfully submitted,

Smith Frohwein Tempel Greenlee Blaha LLC
Customer No. 35856

By: /Michael J. Tempel/
Michael J. Tempel
Registration No. 41,344
(770) 709-0056